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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

16 CR 371 (RA)

5 JASON GALANIS,

6 Defendant.

7 -----x

8 New York, N.Y.
9 January 19, 2017
12:00 p.m.

10 Before:

11 HON. RONNIE ABRAMS,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the
Southern District of New York

16 BRIAN BLAIS

17 REBECCA MERMELSTEIN

AIMEE HECTOR

18 Assistant United States Attorneys

19 LISA SCOLARI

CHRISTOPHER MADIOU

20 Attorneys for Defendant

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(In open court, case called)

MR. BLAIS: Good afternoon, your Honor, Brian Blais, Rebecca Mermelstein, and Aimee Hector for the government, and we're joined at counsel table by FBI Special Agent Shannon Bieniek.

THE COURT: Good morning all.

Ms. Scolari, good morning.

MS. SCOLARI: Good morning, your Honor, Lisa Scolari for Mr. Galanis. Mr. Galanis is here, your Honor, he's prepared to enter a plea of guilty to the first three counts of the indictment. I believe that the agreement has been provided to the Court in advance.

THE COURT: It has.

MS. SCOLARI: And so we're ready to proceed.

THE COURT: Thank you.

Good morning to all of you as well.

So Mr. Galanis, before I decide whether to accept your plea of guilty, I am going to ask you certain questions so that I can be sure that you understand your rights, that you're pleading guilty voluntarily because you are guilty and not for some other reason. So it's important that you answer the questions that I'm going to ask you honestly and completely. If at any time you don't understand something, feel free to say so or ask to speak to your attorneys.

Ms. Cavale, please place the defendant under oath.

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(Defendant sworn)

THE COURT: You should know that since you are now under oath, if you answer any of my questions falsely you could be charged with a separate crime of perjury. Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: So I'm going to start by asking you questions to ensure that you are competent to plead guilty. These are questions that I ask of every defendant in your situation. How old are you?

THE DEFENDANT: 46.

THE COURT: How far did you go in school?

THE DEFENDANT: Four years of university -- high school graduate, four years of university, and some post grad.

THE COURT: And have you ever been treated or hospitalized for any mental illness?

THE DEFENDANT: No, your Honor.

THE COURT: Have you ever been addicted to drugs or alcohol?

THE DEFENDANT: No, your Honor.

THE COURT: In the past 24 hours have you taken any drugs, medicine or pills, or drunk any alcoholic beverages?

THE DEFENDANT: I have not.

THE COURT: Is your mind clear today? By that I mean do you understand what is happening in these proceedings?

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1 THE DEFENDANT: I do.

2 THE COURT: Does either counsel have any doubt as to
3 the defendant's competence to plead guilty at this time?

4 MR. BLAIS: No, your Honor.

5 MS. SCOLARI: No, your Honor.

6 THE COURT: On the basis of Mr. Galanis' responses to
7 my questions, my observations of his demeanor here in court and
8 representations of counsel, I find that he's fully competent to
9 enter an informed plea of guilty at this time.

10 Have you had enough time and opportunity to discuss
11 your case with your attorney, and by that I mean the nature of
12 the charges that you intend to plead guilty to, any possible
13 defenses you may have, and the rights that you will be giving
14 up?

15 THE DEFENDANT: I have, your Honor.

16 THE COURT: And has your attorney discussed with you
17 the consequences of pleading guilty?

18 THE DEFENDANT: Yes.

19 THE COURT: Are you satisfied with her representation
20 of you?

21 THE DEFENDANT: Yes. And thank you, your Honor, for
22 appointing my attorney.

23 THE COURT: I am now going to explain to you certain
24 constitutional rights that you have. These are rights that you
25 will be giving up if you enter a guilty plea.

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1 First, under the Constitution and laws of the United
2 States, you have a right to plead not guilty to charges in the
3 superseding indictment. Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: And if you did plead not guilty, you would
6 be entitled under the Constitution to a speedy and public trial
7 by jury on those charges. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: In advance of trial you would have the
10 opportunity to seek suppression of any or all of the evidence
11 against you on the basis that it was obtained in violation of
12 the Constitution. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: At trial you would be presumed to be
15 innocent, and that means that you would not have to prove that
16 you are innocent. Instead, the government would need to prove
17 your guilt beyond a reasonable doubt before you could be found
18 guilty. So even if you did nothing and said nothing at trial,
19 you could not be convicted unless a jury of twelve people
20 agreed unanimously that you are guilty. Do you understand
21 that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: During trial the witnesses for the
24 prosecution would have to come to court and testify in your
25 presence where you could see them and hear them and your lawyer

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1 could cross-examine them. If you wanted to, your lawyer could
2 offer evidence on your behalf. You would be able to use the
3 Court's power to compel or force witnesses to come to court to
4 testify -- truthfully, of course -- in your defense, even if
5 they didn't want to come. Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: At trial you would have the right to
8 testify if you wanted to, but you would also have the right not
9 to testify, and if you chose not to testify, that could not be
10 used against you in any way. So no inference or suggestion of
11 guilt could be made from the fact that you chose not to
12 testify. Do you understand that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: At trial and at every stage of your case
15 you would be entitled to be represented by an attorney, and if
16 you could not afford an attorney, one would be appointed at
17 public expense -- meaning free of cost -- to represent you. Do
18 you understand that?

19 THE DEFENDANT: I do, your Honor.

20 THE COURT: As I said before, you have the right to
21 plead not guilty. So even as you sit here now for the purposes
22 of entering a guilty plea, you have the right to change your
23 mind and to go to trial.

24 But if you do plead guilty and I accept your plea,
25 there will be no trial, and you will be giving up the rights

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1 that I just described. If you plead guilty, all that will
2 remain to be done is for me, for the Court, to impose sentence.
3 I will enter a judgment of guilty and I will sentence you after
4 getting whatever submissions I get from you, from your
5 attorney, from the government, as well as a presentence report
6 that is prepared by the probation department.

7 There will be no appeal with respect to whether the
8 government could use the evidence it has against you or with
9 respect to whether you did or did not commit the crime. Do you
10 understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: If you did plead guilty, do you also
13 understand that you will have to give up your right not to
14 incriminate yourself, since I am going to ask you certain
15 questions in order to satisfy myself that you are in fact
16 guilty as charged. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: So as I understand it, you seek to plead
19 guilty to Counts One, Two and Three of the superseding
20 indictment which charge you with conspiracy to commit
21 securities fraud, securities fraud, and conspiracy to commit
22 investment adviser fraud, is that right?

23 THE DEFENDANT: That's right.

24 THE COURT: Could the government please state the
25 elements of the charges in question, please.

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MR. BLAIS: Yes, your Honor.

Your Honor, Count One charges the defendant with conspiracy to commit securities fraud in violation of Title 18, United States Code, Section 371. That offense has three elements: First, that two or more persons entered into an unlawful agreement to commit the object of the conspiracy, which in this case is securities fraud; second, that the defendant knowingly and willfully joined in that agreement; and third, that one of the members of the conspiracy committed at least one overt act to further some objective of the conspiracy.

As I noted, the object of the conspiracy charged in Count One, as well as the count in Count Two, is securities fraud, which is an offense under Title 15, United States Code, Section 78j(b) and 78ff, as well as Title 17, Section 240.10b-5 of the Code of Federal Regulations. That offense has three elements:

First, that in connection with the purchase or sale of securities, the defendant did any one or more of the following: First, employed a device, scheme or artifice to defraud; two, made an untrue statement of a material fact, or omitted to state a material facts which made what was said under the circumstances misleading; or three, engaged in an act, practice or course of business that operated or would operate as a fraud or deceit upon a purchaser or seller. So that's the first

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1 element of securities fraud.

2 Second, that the defendant acted unlawfully,
3 knowingly, willfully, and with the intent to defraud.

4 And third, that the defendant used or caused to be
5 used any means or instruments of transportation or
6 communication in interstate commerce, or the use of the mails
7 or of any facility of any national securities exchange in
8 furtherance of the fraudulent conduct.

9 And then finally Count Three charges conspiracy to
10 commit investment adviser fraud in violation of Title 18,
11 United States Code, Section 371. That offense has the same
12 three elements for Count One, but in this case the object of
13 the conspiracy was to commit investment adviser fraud. That
14 offense has four elements -- first of all, that offense is a
15 violation of section 80b-6 and 80b-17 of Title 15 of the United
16 States Code, and that offense has four elements:

17 First, that the defendant, or in this case a member of
18 the conspiracy, was an investment adviser.

19 Second, that the defendant agreed with others to do
20 one of the following: A, employed a device, scheme or artifice
21 to defraud an actual or prospective investment advisory client;
22 two, engaged in a transaction, practice or course of business
23 which operated as a fraud or deceit upon those investment
24 advisory clients or prospective investment advisory clients; or
25 three, engaged in an act, practice or course of business that

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1 was fraudulent, deceptive and manipulative.

2 The third element of investment adviser fraud is that
3 the defendant agreed with others to devise or participate in
4 such alleged device, scheme or artifice to defraud, or engaged
5 in such alleged transaction, practice or course of business
6 knowingly, willfully, and with the intent to defraud.

7 And finally, that the defendant or a member agreed
8 with others to employ such alleged device, scheme or artifice
9 to defraud, or engaged in such alleged transaction, practice or
10 course of business by the use of mails or an instrumentality of
11 interstate commerce.

12 THE COURT: So Mr. Galanis, do you understand that if
13 you were to go to trial the government would need to prove all
14 of those elements beyond a reasonable doubt in addition to
15 proving venue by a preponderance of the evidence?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: So now what I am going to do is I'm going
18 to discuss the maximum penalties for these three crimes. The
19 maximum means the most that could possibly be imposed. It
20 doesn't necessarily mean that that's the sentence you will
21 receive, but you have to understand that by pleading guilty you
22 are exposing yourself to the possibility of receiving any
23 combination of punishments up to the maximums that I'm about to
24 describe.

25 So first, with respect to Count One, with respect to

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1 your liberty, the maximum sentence for Count One is five years
2 in prison. Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: That term of imprisonment could be
5 followed by a term of supervised release of up to three years.
6 Supervised release means that if you're sentenced to prison,
7 after your release from prison you will be subject to
8 supervision of the probation department. You will be required
9 to obey certain rules, and if you violate those rules you could
10 be returned to prison without a jury trial to serve additional
11 time even beyond your original sentence. Do you understand
12 that?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: You should also understand that there's no
15 parole in the federal system, so if you are sentenced to prison
16 you will not be released early on parole, although there is a
17 limited opportunity to earn credit for good behavior. Do you
18 understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: In addition to those restrictions on your
21 liberty, the punishment for this crime also includes certain
22 financial penalties. The maximum allowable fine is \$250,000 or
23 twice the gain you received from the crime or twice the loss to
24 any victims, whichever is greater. I'm also required to impose
25 a mandatory special assessment of \$100. Do you understand

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1 that?

2 THE DEFENDANT: Yes.

3 THE COURT: In addition, I must order restitution to
4 any persons or entities injured as a result of your criminal
5 conduct, and I can order you to forfeit all property derived
6 from the offense or used to facilitate the offense. Do you
7 understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: So with respect to Count Two --

10 MR. BLAIS: Your Honor, before we move to Count Two,
11 as your Honor may be aware, the defendant pled guilty as to a
12 different indictment that is currently pending before Judge
13 Castel, and he is scheduled to be sentenced on that matter on
14 February 15. If your Honor could advise the defendant with
15 respect to the penalties that potentially could be imposed --
16 not only with respect to Count One but Counts Two and Three as
17 well -- that any sentence that your Honor may impose in this
18 matter could be imposed consecutively to any sentence that may
19 be imposed by Judge Castel.

20 THE COURT: Yes, I intended to do that, but I'm happy
21 do that now.

22 Do you understand that any sentence that you get in
23 this case could be consecutive -- meaning on top of -- any
24 sentence that is imposed by Judge Castel. Do you understand
25 that?

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1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: So with respect to Count Two, the maximum
3 term of imprisonment for that crime is 20 years in prison,
4 there's a maximum term of supervised release of three years, a
5 maximum fine of \$5 million or twice the gain you received from
6 the crime or twice the loss to any victims, whichever is
7 greater. And once again, I am required to impose the \$100
8 special assessment and can order restitution and order you to
9 forfeit all property derived from the offense or used to
10 facilitate the offense.

11 Now with respect to Count Three, the maximum term of
12 imprisonment for Count Three is five years. That could be
13 followed by up to three years of supervised release. The
14 maximum allowable fine is \$250,000 or twice the gain you
15 received from the crime or twice the loss to any victims,
16 whichever is greater. And once again, with respect to Count
17 Three, I must order restitution to any person or entity injured
18 as a result of your criminal conduct, and can order you to
19 forfeit all property derived from the offense or used to
20 facilitate the offense. And again, I must impose the mandatory
21 special assessment of \$100.

22 So do you understand that, taking these counts
23 together, it's possible that you could be sent to prison for 30
24 years in addition to any sentence you may get from Judge
25 Castel? Do you understand that?

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1 THE DEFENDANT: Agonizingly, yes, I do.

2 THE COURT: Sorry?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: Do you understand all the maximum
5 sentences that I just described with respect to these three
6 crimes?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Now you should be aware that the
9 punishments I just described are those that may be part of a
10 sentence, but being convicted of a felony may have other
11 consequences.

12 You are a United States citizen, is that correct?

13 THE DEFENDANT: Yes.

14 THE COURT: So you should understand that as a result
15 of your guilty plea you may lose valuable civil rights, to the
16 extent that you have them now, such as the right to vote, the
17 right to hold public office, the right to serve on a jury, and
18 the right to possess any kind of firearm. Do you understand
19 that?

20 THE DEFENDANT: I do.

21 THE COURT: Now in imposing sentence, federal judges
22 are required to consider the recommendations of the federal
23 sentencing guidelines. The guidelines are a complicated set of
24 rules for determining an appropriate sentence, and although
25 judges are required to take into account the sentencing

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1 guidelines when determining a sentence, in the end, the judge
2 is required to give the sentence that she believes best
3 satisfies the purposes of the criminal law as set forth in a
4 provision of the law 18, United States Code, Section 3553(a),
5 even if that is higher or lower than the guidelines
6 recommendation. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Have you discussed the sentencing
9 guidelines with your attorney?

10 THE DEFENDANT: Yes, I have.

11 THE COURT: Do you understand that the guidelines are
12 only recommendations to the Court?

13 THE DEFENDANT: Yes.

14 THE COURT: Now I understand that you have entered
15 into a written plea agreement with the government. I have what
16 appears to be the original agreement. It's dated December 19.
17 It appears to be signed by you and your attorney on January 19.
18 I'm going to mark it as Court Exhibit 1, and I'm going to ask
19 my deputy, Ms. Cavale, to show it to you.

20 Is that your signature on the last page?

21 THE DEFENDANT: It is.

22 THE COURT: Before signing this, did you read the
23 entire plea agreement?

24 THE DEFENDANT: Yes.

25 THE COURT: Did you discuss it with your attorney?

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1 THE DEFENDANT: Yes.

2 THE COURT: I understand that it's a long document,
3 contains some technical legal language, but after discussing it
4 with your attorney, do you understand all the terms of the
5 agreement?

6 THE DEFENDANT: I do.

7 THE COURT: I'm going to ask the government to
8 summarize the terms of the agreement, please.

9 MR. BLAIS: Yes, your Honor. The defendant under this
10 agreement agrees to enter a plea of guilty to Counts One, Two
11 and Three. The maximum potential penalties for those various
12 offenses are set forth in the agreement as already indicated on
13 the record by your Honor.

14 The defendant agrees to the entrance of a money
15 judgment in connection with forfeiture of \$43,277,436. In
16 connection with that, the parties have executed a consent order
17 of forfeiture which we provided to the Court both in advance of
18 this proceeding and signed versions at the start of this
19 proceeding.

20 There is an agreement between the parties as to the
21 applicable guidelines offense range. The parties agree that
22 the applicable offense level is 34, that the applicable
23 criminal history category is three, the consequence of which is
24 a sentencing guidelines range of 188 to 235 months of
25 imprisonment, and an applicable fine range of 35,000 to

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1 \$5 million.

2 The parties agree that neither a downward or upward
3 departure from that sentencing guidelines range is appropriate,
4 but that either party may argue for a variance either above or
5 below that particular guidelines level.

6 Further, both parties agree to certain limitations of
7 their ability to appeal in this matter. In particular, the
8 defendant agrees that he will not appeal any sentence that is
9 within or below the stipulated guidelines range of 188 to 235
10 months imprisonment, and the government agrees that it will not
11 appeal any sentence above that. There are similar provisions
12 with respect to the fine and the forfeiture amounts.

13 I think those are the key pertinent provisions of the
14 agreement.

15 THE COURT: Thank you.

16 Mr. Galanis, I will follow up on a couple of those
17 provisions. So with respect to the guidelines sentencing range
18 that you have agreed to with the government of 188 to 235
19 months, I want to make sure that you understand that that means
20 that neither you nor the government can argue for a different
21 guidelines calculation, although you can seek a sentence
22 outside of that range. Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: You should understand that this agreement
25 does not bind me in any way. I'm required to make my own

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1 independent calculation of the sentencing guidelines and to
2 impose a sentence based on what I believe is appropriate in
3 your case. So you have to understand that my calculation may
4 differ from the one you agreed to with the government. I'm not
5 saying that it will, but I want to let you know that even if it
6 does differ, you won't be allowed to withdraw your plea. Do
7 you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And under the agreement, the government
10 also already mentioned that you're not only pleading guilty but
11 you're admitting the forfeiture allegations with respect to
12 Counts One, Two and Three of the superseding indictment. Do
13 you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you also understand that under the
16 agreement you're giving up your right to appeal or otherwise
17 challenge your sentence as long as I sentence you to 188 to 235
18 months of imprisonment or less. So if I sentence you to more
19 than 235 months in prison, you have the right to appeal your
20 sentence. But if I sentence you to 235 months or less, you
21 can't appeal under this agreement. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you also understand that under this
24 agreement you are waiving other rights of appeal, including the
25 right to appeal your plea and conviction based on the

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1 government's failure to disclose any exculpatory or other
2 discovery material that was not produced before the date of
3 your agreement. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Did you willingly sign this agreement?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Has anyone threatened, bribed or forced
8 you either to sign the plea agreement or to plead guilty?

9 THE DEFENDANT: No.

10 THE COURT: And other than what is in the plea
11 agreement, has anyone offered you any inducement to plead
12 guilty?

13 THE DEFENDANT: No.

14 THE COURT: Has anyone made any promise to you as to
15 what your sentence will be?

16 THE DEFENDANT: No.

17 THE COURT: Do you understand that if anyone attempted
18 to predict what your sentence will be, that their prediction
19 could be wrong?

20 THE DEFENDANT: Yes.

21 THE COURT: And I say that because you should
22 understand that no one, not your attorney, not the government,
23 not even I can be sure today what your sentence will be because
24 that won't be determined until I receive the presentence report
25 and I have decided what the correct calculation of the range

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1 recommended by the guidelines is and whether there's any basis
2 not to follow that range. So even if your sentence is
3 different from what you had hoped for or expected, you won't be
4 allowed to withdraw your plea. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: And now with respect to the consent order
7 of forfeiture, I'm going to ask my deputy to hand this to you
8 as well. And I'm marking this as Court Exhibit 2.

9 Is that your signature?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: Did you review this consent order of
12 forfeiture with your attorney before signing it?

13 THE DEFENDANT: I did.

14 THE COURT: And do you understand that as a result of
15 the offenses charged in Counts One, Two and Three of the
16 indictment, you are consenting to a money judgment in the
17 amount of \$43,277,436 in United States currency. Do you
18 understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: And do you consent to this forfeiture
21 order?

22 THE DEFENDANT: I do, your Honor.

23 THE COURT: So now that you have been advised of the
24 charges against you and the possible penalties you face and the
25 rights you're giving up, is it still your intention to plead

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1 guilty?

2 THE DEFENDANT: It is.

3 THE COURT: So now I'm going to ask you the official
4 question with respect to Counts One, Two and Three, which is
5 how you plead.

6 So with respect to Count One of the superseding
7 indictment, how do you plead?

8 THE DEFENDANT: Guilty, your Honor.

9 THE COURT: With respect to Count Two of the
10 superseding indictment, how do you plead?

11 THE DEFENDANT: Guilty.

12 THE COURT: And with respect to Count Three?

13 THE DEFENDANT: Guilty.

14 THE COURT: Do you admit or deny the forfeiture
15 allegations in the superseding indictment?

16 THE DEFENDANT: I admit.

17 THE COURT: Tell me in your own words what you did
18 that makes you believe that you're guilty of these crimes.

19 THE DEFENDANT: Your Honor, as to Counts One and Two,
20 between March 2014 and April 2016 I agreed with others to
21 withhold material information related to conflicts of interest
22 in connection with the purchase and sale of bonds.

23 With respect to Count Three, your Honor, between
24 May 2014 and April 2016 I agreed with others to engage in
25 deceptive and manipulative business transactions in connection

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1 with an investment adviser.

2 MS. SCOLARI: Your Honor, I would just add, as to the
3 interstate commerce impact issue, that emails were used in the
4 course of the admissions that Mr. Galanis just made.

5 THE COURT: With respect to the conduct relevant to
6 both or all three counts?

7 MS. SCOLARI: Yes, that's correct.

8 THE COURT: And when you did this, did you know what
9 you were doing was wrong and illegal?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And does the government want to follow up
12 with a few questions?

13 MR. BLAIS: Your Honor, I think his allocution is
14 actually -- although minimalist, is actually legally
15 sufficient. I could make a proffer with respect to venue --

16 THE COURT: All right.

17 MR. BLAIS: -- as to these counts.

18 With respect to all counts, there were meetings at
19 which the defendant attended that were held in New York,
20 including meetings with the investment adviser who was
21 responsible for the placement of the bonds that are at issue
22 here.

23 In addition, the broker-dealer that served as the
24 placement agent for these particular bonds was located here in
25 New York. Additionally, there were various bonds that were

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1 issued as part of this scheme to a co-conspirator that were
2 housed at a brokerage firm here in New York. And additionally,
3 certain proceeds of this offense were spent at various
4 locations here in New York, including restaurants.

5 And I could also, if the Court wishes, make a further
6 proffer as to what the government believes its evidence at
7 trial would show in this matter.

8 THE COURT: Yes, I will ask you that momentarily.

9 First of all, with respect to venue, does the
10 defendant contest venue?

11 MS. SCOLARI: No, we stipulate, your Honor.

12 THE COURT: Are there any additional questions that
13 you think I should ask with respect to intent to defraud?

14 Do you think the allocution is sufficient?

15 MR. BLAIS: It certainly wouldn't be harmful to ask
16 if, when the defendant took those various actions, he was
17 acting with an intent to defraud. We wouldn't object to asking
18 that question.

19 THE COURT: Mr. Galanis, what was your intent? Was
20 your intent to defraud at the time you took the actions that
21 you did?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: I would like the government to now please
24 summarize what its evidence would be if the case were to go to
25 trial.

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1 MR. BLAIS: Thank you, your Honor.

2 Your Honor, at any trial in this matter the government
3 would prove through cooperating witnesses, other percipient
4 witnesses, substantial documentary evidence, including the
5 tracing of various proceeds from these various bond issues, the
6 following:

7 First, that the defendant agreed with others -- and
8 this is with respect to Counts One and Two -- that the
9 defendant agreed with others and worked with a Native American
10 tribal entity called the Wakpamni Lake Community Corporation.
11 In working with that Native American tribal entity, caused the
12 issuance of bonds by that tribal entity that were issued in the
13 market totaling over \$60 million.

14 In connection with this bond issuance, the government
15 would prove at trial at least three variants of securities
16 fraud that -- Mr. Galanis pled specifically to one of them,
17 which is that they withheld material information regarding
18 conflicts from the ultimate investors in those bonds.

19 I believe the government would also prove at trial two
20 additional flavors of fraud, if you will: First, that the
21 proceeds of those bonds, according to the documents governing
22 those bonds, were to be invested in a particular manner in
23 order to generate proceeds sufficient to pay the interest on
24 the bonds, as well as to make regular payments to the Indian
25 tribal entity to be used for economic development purposes.

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1 The government's evidence at trial would show that all
2 the proceeds were not invested in the manner specified in the
3 governing documents. And in fact, that substantial portions of
4 the proceeds -- in the case of Mr. Galanis, over \$8 million --
5 were diverted for personal purposes, including luxury travel,
6 clothing, restaurant expenses, hotel expenses, and other
7 personal expenses of that nature.

8 And finally, the government would prove that
9 Mr. Galanis caused certain of the bond proceeds to be recycled
10 to purchase additional issuances of the bonds, the result of
11 which, that although there were bonds in the face amount of
12 over \$60 million, there were in fact proceeds of substantially
13 less than that because certain of the proceeds had been
14 recycled to purchase additional issuances of the bonds.

15 So that's what the government believes it would prove
16 in connection with Counts One and Two in terms of the
17 securities fraud and conspiracy to commit securities fraud.

18 In connection with Count Three, the conspiracy to
19 commit investment adviser fraud, the government would prove at
20 trial that the defendant agreed with others, including the
21 leadership of two different investment advisory firms, one
22 called Hughes Capital Management, the other called Atlantic
23 Advisers, that he agreed with the leaders of that firm to
24 defraud the clients of those firms.

25 One manner in which that was done was, as the

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1 defendant allocuted to, by withholding from them substantial
2 conflicts of interest that existed with respect to these bonds.
3 Two, that he caused, with others in the conspiracy, these bonds
4 that I just referenced to be placed in the client accounts at
5 Hughes and Atlantic. In many cases, those investments were
6 contrary to investment advisory agreements with the particular
7 clients because those investment advisory agreements
8 prohibited, for example, investments in unrated bonds, which
9 these particular bonds were.

10 And finally, that there was no -- at the time that
11 these bonds were placed in the client accounts, there was no --
12 and still to this date there is no ready secondary market for
13 such bonds such that the clients who were, without any
14 disclosure, invested in these bonds have been to date unable to
15 sell them or to basically get out of the positions that they
16 held in these particular bonds.

17 THE COURT: All right. Do government and defense
18 counsel agree there's a sufficient factual predicate for the
19 guilty plea?

20 MR. BLAIS: Yes, your Honor.

21 MS. SCOLARI: Yes, your Honor.

22 THE COURT: So Mr. Galanis, because you acknowledge
23 that you are in fact guilty as charged in Counts One, Two and
24 Three of the superseding indictment, and because I'm satisfied
25 that you understand your rights, including your right to go to

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1 trial, that you're aware of the consequences of your plea,
2 including the sentence which may be imposed, and because I find
3 that you are knowingly and voluntarily pleading guilty, I
4 accept your guilty plea to Counts One, Two and Three of the
5 superseding indictment.

6 The probation department will want to interview in
7 connection with a presentence report that I mentioned earlier
8 that it will prepare.

9 Ms. Scolari, would you like to be present for that
10 interview?

11 MS. SCOLARI: Yes, definitely, your Honor.

12 THE COURT: If you chose to speak to the probation
13 department, Mr. Galanis, please make sure that everything you
14 say is truthful and accurate. I'm going to read that report
15 very carefully. You also have the opportunity to object to
16 anything in it, both in advance of and at sentencing. So if
17 there are any mistakes or errors, in your view, raise them with
18 your attorney and they will be raised with me.

19 The sentencing is set for --

20 DEPUTY CLERK: May 5, 2017 at 11:00 a.m.

21 THE COURT: The government shall provide the probation
22 officer with its factual statement within one week, and defense
23 counsel shall arrange for the defendant to be interviewed by
24 the probation department within the next two weeks.

25 I'll just refer counsel to my individual rules and

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1 practices in criminal cases available on the court website.

2 Among other things, defense submissions are due two weeks prior
3 to sentencing and the government's submission due one week
4 prior to sentencing.

5 Are there any other applications at this time?

6 MS. SCOLARI: Yes, your Honor. I have given the
7 government a copy of the proposed order that we would like to
8 submit to the Court.

9 Mr. Galanis is currently being housed in MCC. As your
10 Honor knows, the MCC education department relies very much on
11 outside volunteers and sometimes inmates who are able to teach
12 classes. We're asking that the Court issue an order actually
13 worded that it's a request to the marshals that Mr. Galanis be
14 kept at MCC.

15 He's teaching three different courses at MCC now, so
16 he's not only doing something to benefit him, but also several
17 other inmates. The classes are English and different business
18 practices having nothing to do with investing. But the bottom
19 line is he has 30 or so inmates attending these classes, and
20 they're tremendously beneficial to the people who are there, as
21 well as giving him something very constructive to do.

22 My experience -- perhaps the Court knows this -- is
23 that at MDC they don't have the capacity and they have
24 virtually -- they have no programs right now. I don't even
25 know, frankly, if there's an education department because I

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1 don't know that they have the funds.

2 The marshals -- obviously the Court can order -- I
3 don't know that the marshals would appreciate an order, that's
4 why we worded the order indicating that it's a request.

5 I have shown a copy to the government, and Mr. Blais
6 can tell the Court the government's position.

7 THE COURT: Does the government have any objection?

8 MR. BLAIS: Your Honor, we take no objection on BOP
9 designation issues.

10 THE COURT: All right. I may just change the language
11 a little bit just to make clear -- I know the marshals' job can
12 be very difficult at times to coordinate everybody, but that
13 they shall do this if it's feasible. But I'm happy to make
14 that request on Mr. Galanis's behalf.

15 MS. SCOLARI: Thank you, your Honor.

16 THE COURT: Is there anything else at this time?

17 MS. SCOLARI: Would it be possible for the Court to
18 make any changes now so that we could give it to the marshals
19 to take --

20 THE COURT: I will do it. Wait here a few minutes and
21 Ms. Cavale will assist.

22 MR. BLAIS: Nothing from the government.

23 THE COURT: Thank you, we're adjourned.

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